

**COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND  
SUBSTANCE ABUSE SERVICES**

**Rules Committee Minutes**

**Clarion Hotel State Capital  
320 Hillsborough Street  
Raleigh, NC 27603**

**Thursday, October 27, 2011**

Attending:

**Rules Committee Members:** Jennifer Brobst, John R. Corne, Dr. Richard Brunstetter, Debra Dihoff, Matthew Harbin, Pamela Poteat, Don Trobaugh, Anna R. Cunningham, Dr. James Finch

**Excused Absence:** David R. Turpin

**Division Staff:** Steven E. Hairston, W. Denise Baker, Amanda J. Reeder, Marta Hester, Andrea Borden

**Others:** Dr. Thomas Gettelman, Frank Edwards, Ann Rodriguez, Tara Fields, Corye Dunn, Deanna Janus, Stephanie Alexander

**Call to Order:**

Jennifer Brobst, Chair, called the meeting to order at 9:33 a.m. All members of the Rules Committee, staff and public were introduced. Ms. Brobst read the Ethics Reminder and asked if any members had a conflict or appearance of conflict with respect to any matters coming before the Rules Committee. There were none.

**Approval of Minutes:**

*Upon motion, second, and unanimous vote, the Rules Committee approved the minutes of the January 27, 2011 Rules Committee Meeting.*

**Status of Rules Update:**

Ms. Brobst asked staff to give an update on the status of the proposed amendments to Rules 10A NCAC Section 26D, North Carolina Department of Corrections: Standards for Mental Health and Mental Retardation rules. Steven Hairston, Chief, Operations Support Section, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), responded that the rules were at the Department of Correction for fiscal analysis. The Rules Committee members stated they were concerned regarding the length of time it was taking for this review to take place, as the rule amendments were very important and necessary to ensure proper care for the inmates.

The Rules Committee discussed a plan to write a letter to the Secretary of the Department of Correction to request that the rules be moved forward. In addition, the Rules Committee requested that the fiscal analyst at the Department of Correction come to the next meeting to give an interim report.

*Upon motion, second, and unanimous vote, the Rules Committee approved recommending to the full Commission that the Chair of the Commission send a letter to the Department of Correction and invite its fiscal analyst to give an interim report.*

### **Presentations:**

Ms. Brobst informed the Rules Committee that there are other commissions and councils who work with the mh/dd/sa population. Ms. Brobst suggested that the Rules Committee seek to link with those bodies in order to work more effectively for the population.

Ms. Brobst asked if any of the Rules Committee members were on other boards or commissions. Ms. Brobst, Ms. Anna Cunningham, Dr. Richard Brunstetter, Ms. Pamela Poteat, Ms. Debra Dihoff, and Mr. Frank Edwards each reported current and/or previous involvement with various boards and identified the organizations with which each was affiliated.

Steven Hairston presented information relating to the organizational structure of the Department of Health and Human Services (DHHS) as well as the DMH/DD/SAS and the Division of State Operated Healthcare Facilities.

Mr. Hairston informed the Rules Committee that there are a number of boards and councils organized under the DHHS. Mr. Hairston referred the members to a handout which listed each of those bodies and gave a brief summary of them. Mr. Hairston pointed out that out of those 42 bodies under the DHHS, only seven had rulemaking authority. The Rules Committee identified those bodies which had the potential to overlap with the work of the Commission, including the Commission for Public Health, the Division of Social Services, the State Consumer and Family Advisory Committee (CFAC), the Legislative Study Commission, Early Childhood Intervention and the Mental Health Planning Council.

Ms. Brobst encouraged all Rules Committee members to further research those boards by reviewing their websites. Ms. Brobst further stated that at the next meeting, the Rules Committee will identify the groups it wishes to contact in order to work more closely with them. Ms. Brobst stated she would provide the website address for those groups prior to the next Rules Committee meeting and requested the members monitor what those groups are doing during the interim.

Mr. Hairston continued his presentation and gave the Committee a brief history of the change in structure of the Legislative Oversight Committee (LOC). Mr. Hairston informed the Committee members that the LOC for MH/DD/SAS was established in 2000; at that time, it was the first standing committee to specifically review mh/dd/sa services. Mr. Hairston stated that since it was established, it has met on a monthly basis. Mr. Hairston informed the members that the LOC once issued an annual state plan for mh/dd/sa services; this practice ended in 2009. The Division now issues a triennial Strategic Plan. Mr. Hairston referred to Session Law 2011-291, included in the handouts, to explain the new structure now in place.

Mr. Hairston received the following questions and comments:

- Dr. Brunstetter, Rules Committee member, asked why the LOC was reorganized by the General Assembly.
  - Ms. Brobst stated that the session law appeared to touch upon all LOCs and the change may have been made for cost containment purposes and to allow the legislature to tailor its work.
- Ms. Dihoff, Rules Committee Member, stated that, based upon her attendance at the legislature, it appears to her that focus has been lost as it pertains to the mh/dd/sa population.
  - Ms. Brobst encouraged everyone to attend the LOC meetings, or monitor its activities via the website.

Frank Edwards, Commission member, gave a presentation on the State CFAC, stating that he was formerly a member of that body. Mr. Edwards stated that the State CFAC members participate in a monthly conference call with local CFACs to discuss topics important to the mh/dd/sa population. Mr. Edwards added that the State CFAC produces a monthly newsletter and urged the Committee members to review it.

Mr. Edwards stated that he believed when the Rules Committee and Commission look at rules, it should recall that those rules affect the lives of the mh/dd/sa population. Mr. Edwards further stated that the Commission should understand the needs of the population. Mr. Edwards reminded the Rules Committee that the public mh/dd/sa service system will be undergoing a change to become Managed Care Organizations, and encouraged the Committee members to keep up with that change.

- Ms. Brobst stated that she believed the Rules Committee should coordinate with the State CFAC. Ms. Dihoff agreed with this suggestion.
- Ms. Brobst and Anna Cunningham, Rules Committee member, both inquired about the Rules Committee's role in the 1915(b)(c) waiver process, both in an advisory role and as it relates to rules currently in the NC Administrative Code that were passed by the Commission.
  - Steven Hairston stated that it would be appropriate for the Committee to stay informed about this change in order to offer thoughts and suggestions.
- Anna Cunningham stated that developments in the Community Alternatives Program (CAP) services were also being reformed as it relates to the Intellectually and Developmentally Disabled population, and that the Rules Committee should stay informed about those changes, as well.
  - Mr. Hairston agreed with Ms. Cunningham, and stated it would be a good idea for the Committee to invite subject matter experts to present to them on these issues.
  - Dr. Brunstetter stated that he believed the Division leadership should meet with Commission leadership and ask for suggestions.

#### **Discussion of Session Law 2009-264:**

Ms. Brobst referred to the Rules Committee members to Session Law 2009-264 in the handouts. Ms. Brobst stated that the Rules Committee could review the Commission's existing rules to determine if a change to the language is needed and advisable, given the requirements of the Administrative Procedure Act.

- Ms. Baker informed the Committee that Dave Richard, Executive Director, the ARC of North Carolina has indicated that the organization provided the list of acceptable language referenced in the bill to the General Assembly. Ms. Baker stated that Mr. Richard has agreed to send a copy of that language to the Commission.
- Ms. Dihoff advised that the National Alliance on Mental Illness will look at the substance abuse language.

- John Corne, Commission Chair and Rules Committee member, stated that it might be necessary to ask the Secretary of DHHS to sponsor a bill to allow the language to be changed without needing to go through the formal rulemaking process.

The Rules Committee agreed to table discussion of part IV of the agenda to the next meeting.

**Public Comment:**

Ann Rodriguez of the NC Council addressed the Committee to state that her agency appreciates the work of the members. Ms. Rodriguez stated that as the system transforms to Managed Care Organizations and Health Care Reform is further implemented, there will be several things for the Commission to consider.

**There being no further business, the meeting adjourned at 12:12 p.m.**